

HOUSE BILL NO. 402

INTRODUCED BY PARKER, BALLANTYNE, BECKER, BERGREN, BRANAE, CARNEY, COCCHIARELLA, COONEY, DICKENSON, DOWELL, EVERETT, FACEY, FRANKLIN, GALLUS, GALVIN-HALCRO, GIBSON, GOLIE, HANSEN, HARRIS, JACOBSON, JENT, KEANE, LANGE, LASLOVICH, LAWSON, LEHMAN, LENHART, MAEDJE, MALCOLM, MANGAN, MCKENNEY, MUSGROVE, NEWMAN, A. OLSON, RASER, RIPLEY, B. RYAN, SCHMIDT, SHEA, SQUIRES, STOKER, TESTER, B. THOMAS, WANZENRIED, WEISS, WILSON

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE MAXIMUM IMPRISONMENT PENALTIES AND REQUIRING OFFENDER REGISTRATION FOR THE CRIME OF OPERATING AN UNLAWFUL CLANDESTINE ILLEGAL DRUG LABORATORY; AND AMENDING ~~SECTION~~ SECTIONS 45-9-132 AND 46-23-502, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-9-132, MCA, is amended to read:

"45-9-132. Operation of unlawful clandestine laboratory -- penalties. (1) A person commits the offense of operation of an unlawful clandestine laboratory if the person purposely or knowingly engages in:

(a) the procurement, possession, or use of chemicals, precursors to dangerous drugs, supplies, equipment, or a laboratory location for the criminal production or manufacture of dangerous drugs as prohibited by 45-9-110;

(b) the transportation of or arranging for the transportation of chemicals, precursors to dangerous drugs, supplies, or equipment for the criminal production or manufacture of dangerous drugs as prohibited by 45-9-110;

or

(c) the setting up of equipment or supplies in preparation for the criminal production or manufacture of dangerous drugs as prohibited by 45-9-110.

(2) Except as provided in subsections (3) and (4), a person convicted of operation of an unlawful clandestine laboratory shall be fined an amount not to exceed \$25,000, be imprisoned in a state prison for a term not to exceed ~~20~~ 40 years, or both.

(3) A person convicted of operation of an unlawful clandestine laboratory shall be fined an amount not to exceed \$50,000, be imprisoned in a state prison for a term not to exceed ~~25~~ 50 years, or both, if 46-1-401 is

1 complied with and the operation of an unlawful clandestine laboratory or any phase of the operation:

2 (a) created a substantial risk of death of or serious bodily injury to another;

3 (b) took place within 500 feet of a residence, business, church, or school; or

4 (c) took place in the presence of a person less than 18 years of age.

5 (4) A person convicted of operation of an unlawful clandestine laboratory shall be fined an amount not
6 to exceed \$100,000, be imprisoned in a state prison for a term not to exceed ~~40~~ 50 years, or both, if 46-1-401
7 is complied with and the operation of an unlawful clandestine laboratory or any phase of the operation involved
8 the use of a firearm or booby trap."

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10 **SECTION 2. SECTION 46-23-502, MCA, IS AMENDED TO READ:**

11 **"46-23-502. Definitions.** As used in 46-18-255 and this part, the following definitions apply:

12 (1) "Department" means the department of corrections provided for in 2-15-2301.

13 (2) "Mental abnormality" means a congenital or acquired condition that affects the mental, emotional,
14 or volitional capacity of a person in a manner that predisposes the person to the commission of one or more
15 sexual offenses to a degree that makes the person a menace to the health and safety of other persons.

16 (3) "Personality disorder" means a personality disorder as defined in the fourth edition of the Diagnostic
17 and Statistical Manual of Mental Disorders adopted by the American psychiatric association.

18 (4) "Predatory sexual offense" means a sexual offense committed against a stranger or against a
19 person with whom a relationship has been established or furthered for the primary purpose of victimization.

20 (5) "Sexual offender evaluator" means a person qualified under rules established by the department
21 to conduct sexual offender and sexually violent predator evaluations.

22 (6) "Sexual offense" means:

23 (a) any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-301 (if the victim
24 is less than 18 years of age and the offender is not a parent of the victim), 45-5-302, 45-5-303, 45-5-502(3),
25 45-5-503, 45-5-504(1) (if the victim is under 18 years of age and the offender is 18 years of age or older),
26 45-5-504(2)(c), 45-5-507 (if the victim is under 18 years of age and the offender is 3 or more years older than
27 the victim), 45-5-603(1)(b), or 45-5-625; or

28 (b) any violation of a law of another state or the federal government reasonably equivalent to a violation
29 listed in subsection (6)(a).

30 (7) "Sexual or violent offender" means a person who has been convicted of a sexual or violent offense.

